S.B.Civil Writ Petition No.511/2003
Jagdish Petro Chemicals
vs
State of Rajasthan & Ors.

DATE OF ORDER : - 13.12.2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. G.K.Vyas, for the petitioner.
Mr. Shyam Ladrecha, for the respondent.

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Heard learned counsel for the parties.

Brief facts of the case are that petitioner was granted licence for use of wholesale (bulk and tanker load) and retail in drum and barrels packing trade, for the use of processing of industrial solvents, thinners specially industrial products and for use of organic composite, solvent, diluents, paints removers, varishes removers and for industrial uses only. The licence was initially for one year and, thereafter, it is to be renewed for two years on each 24th July. The term of renewal is as under: -

> "(*) Licence shall be issued for a period of one year and thereafter shall be renewed for two years on each 24th July."

The petitioner applied for renewal of his licence vide Annex.2 dated 12th Jan., 2002. The petitioner's application for renewal was dismissed by the District Supply Officer, Sirohi vide order dated 17th July, 2002 (Annex.4) on the ground that FIR has been lodged against the petitioner under Section 3/7 of the Essential Commodities Act aqnd

Solvent Raffinate and Slop (Acquisition, Sale and Shortage Prevention and use Automobile) Order, 2000. The petitioner is aggrieved against rejection of his prayer for renewal vide order dated 17th July, 2002 (Annex.4).

According to learned counsel for the respondent in view of the fact that petitioner has misused the licence and involved in the activities, which are offence under the relevant Act, therefore, the licence cannot be renewed. It is also submitted that the petitioner applied for renewal in a wrong provision of law. Therefore, also his licence could not have been renewed.

I considered the submissions of learned counsel for the parties. Perused the facts of the case. So far as condition of renewal for two years after completion of one year of the term of the licence is not in dispute. The petitioner submitted application for renewal in time is also not in dispute. The only ground given in Annex.4 refusing the renewal is that an FIR was lodged against the petitioner. However, by that time even the challan was not filed against the petitioner. The petitioner was involved in the illegal activities is yet to be decided even by the criminal court and admittedly, no enquiry was held by the District Supply Officer, Sirohi, if that can be a ground for holding that petitioner licence cannot be renewed because he was involved in any

activities, which may dis-entitles the petitioner from getting the renewal of his licence. Admittedly, before passing the order dated 17th July, 2002, no opportunity of hearing was granted to the petitioner.

Learned counsel for the respondent even could not point out any of the provision, which permits the denial of renewal of licence to the petitioner on the ground of mere registration of FIR only. The moving of application by giving wrong provision of law cannot be a ground for rejection of the application for renewal of licence where the licence contains the undisputed condition providing for renewal of the licence and application is unambiguously application for seeking renewal of the licence.

In view of the above, the writ petition of the petitioner deserves to be allowed, hence allowed. The order dated 17th July, 2002 is quashed and set aside. The respondents are directed to pass appropriate order of renewal of licence. The appropriate order may be passed within a period of two months from today. The copy of the order may be supplied by the petitioner to the concerned authority.

(Prakash Tatia), J.

c.p.goyal/-